

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2009-1125-PWS-E **TCEQ ID:** RN101197986 **CASE NO.:** 37978
RESPONDENT NAME: Ha Van Nguyen dba Austin Aqua System

ORDER TYPE:		
<input type="checkbox"/> 1660 AGREED ORDER	<input checked="" type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMEDIATE AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input checked="" type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Austin Aqua System, 105 Burnet Hills Drive, two and one half miles southeast of Burnet, Burnet County</p> <p>TYPE OF OPERATION: Public water supply</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on December 28, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Andrea Linson-Mgbeoduru, Enforcement Division, Enforcement Team 2, MC 169, (512) 239-1482; Ms. Cari-Michel La Caille, Enforcement Division, MC 219, (512) 239-1387 Respondent: Mr. Ha Van Nguyen, Owner, Austin Aqua System, 7407 Amsterdam Lane, Arlington, Texas 76002 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: June 1, 2009</p> <p>Date of NOV/NOE Relating to this Case: July 7, 2009 (NOE)</p> <p>Background Facts: This was a record review.</p> <p>WATER</p> <p>1) Failure to collect routine distribution water samples for coliform analysis and failure to provide public notification of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii), 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>2) Failure to collect at least five routine distribution coliform samples during the months following a total coliform-positive sample result and failure to provide public notice of the failure to sample [30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F), 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d)].</p> <p>3) Failure to comply with the maximum contaminant level ("MCL") for total coliform and failure to provide public notice of the exceedences [30 TEX. ADMIN. CODE §§ 290.109(f)(3), 290.122(b)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.031(a)].</p> <p>4) Failure to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine coliform sample and failure to provide public notice of the failure to collect repeat distribution samples within 24 hours of being notified of a total coliform positive sample result [30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii) and 290.122(c)(2)(A)].</p>	<p>Total Assessed: \$4142</p> <p>Total Deferred: \$0 <input type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$117 (remaining \$4,025 due in 35 monthly payments of \$115 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p> <p>Findings Orders Justification: The Respondent has three repeated enforcement actions over the prior five year period for the same violation.</p>	<p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 10 days after the effective date of this Agreed Order:</p> <p>i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility; and</p> <p>ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants. This provision will be satisfied upon six months of compliance monitoring and reporting.</p> <p>b. Within 195 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision a.</p>

Additional ID No(s): PWS ID. No. 0270042



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

DATES	Assigned	13-Jul-2009	Screening	17-Jul-2009	EPA Due	30-Aug-2008
	PCW	17-Jul-2009				

RESPONDENT/FACILITY INFORMATION	
Respondent	Ha Van Nguyen dba Austin Aqua System
Reg. Ent. Ref. No.	RN101197986
Facility/Site Region	11-Austin
Major/Minor Source	Minor

CASE INFORMATION			
Enf./Case ID No.	37978	No. of Violations	4
Docket No.	2009-1125-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Andrea Linson-Mgbeoduru
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the Indicated percentage.

Compliance History Enhancement **Subtotals 2, 3, & 7**

Notes: Enhancement due to eight Notices of Violation ("NOV") with the same or similar violations as those in the current enforcement action and five dissimilar NOV's.

Culpability Enhancement **Subtotal 4**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments: **Subtotal 5**

Economic Benefit Enhancement* **Subtotal 6**

Total EB Amounts
 Approx. Cost of Compliance *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal**

OTHER FACTORS AS JUSTICE MAY REQUIRE **Adjustment**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Enhancement recommended for the recovery of avoided costs.

Final Penalty Amount

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty**

DEFERRAL Reduction **Adjustment**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: No deferral is recommended for Findings Orders.

PAYABLE PENALTY

Screening Date: 17-Jul-2009

Docket No.: 2009-1125-PWS-E

PCW

Respondent: Ha Van Nguyen dba Austin Aqua System

Policy Revision 2 (September 2002)

Case ID No.: 37978

PCW Revision October 30, 2008

Reg. Ent. Reference No.: RN101197986

Media [Statute]: Public Water Supply

Enf. Coordinator: Andrea Linson-Mgbeoduru

Compliance History Worksheet

>> **Compliance History Site Enhancement (Subtotal 2)**

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	8	40%
	Other written NOVs	5	10%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
<i>Please Enter Yes or No</i>			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 50%

>> **Repeat Violator (Subtotal 3)**

N/A

Adjustment Percentage (Subtotal 3) 0%

>> **Compliance History Person Classification (Subtotal 7)**

N/A

Adjustment Percentage (Subtotal 7) 0%

>> **Compliance History Summary**

Compliance History Notes

Enhancement due to eight Notices of Violation ("NOV") with the same or similar violations as those in the current enforcement action and five dissimilar NOVs.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 50%

Screening Date: 17-Jul-2009		Docket No.: 2009-1125-PWS-E		PCW
Respondent: Ha Van Nguyen dba Austin Aqua System			Policy Revision 2 (September 2002)	
Case ID No.: 37978			PCW Revision October 30, 2008	
Reg. Ent. Reference No.: RN101197986				
Media [Statute]: Public Water Supply				
Enf. Coordinator: Andrea Linson-Mgbeoduru				
Violation Number	1			
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and Tex. Health & Safety Code § 341.033(d)			
Violation Description	Failed to collect routine distribution water samples for coliform analysis for the month of February 2009 and failed to provide public notification of the failure to sample for February 2009.			
Base Penalty				\$1,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual			
	Potential	X		
Percent				25%
>> Programmatic Matrix				
	Falsification	Major	Moderate	Minor
Percent				0%
Matrix Notes	Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.			
Adjustment				\$750
				\$250
Violation Events				
Number of Violation Events		1	Number of violation days	
		28		
<i>mark only one with an x</i>	daily			
	weekly			
	monthly	X		
	quarterly			
	semiannual			
	annual			
	single event			
Violation Base Penalty				\$250
One monthly event is recommended, calculated for the month the sample was not collected, February 2009.				
Good Faith Efforts to Comply		0.0% Reduction		
		Before NOV	NOV to EDPRP/Settlement Offer	\$0
Extraordinary				
Ordinary				
N/A	X	(mark with x)		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$250
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount	\$56	Violation Final Penalty Total	\$518	
This violation Final Assessed Penalty (adjusted for limits)				\$518

Economic Benefit Worksheet

Respondent: Ha Van Nguyen dba Austin Aqua System
Case ID No.: 37978
Reg. Ent. Reference No.: RN101197986
Media: Public Water Supply
Violation No.: 1

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Data Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description: No commas or \$.						

Delayed Costs

Item Description	Item Cost	Data Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$100	1-Jun-2009	10-Feb-2010	0.70	\$0	\$5	\$5
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs: The delayed cost includes the estimated amount to implement training on procedures necessary to ensure that all public notifications are provided in a timely manner to the customers of the Facility. The date required is the date of the file review. The final date is the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Data Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	28-Feb-2009	1-Mar-2009	0.00	\$0	\$25	\$25
Other (as needed)	\$25	1-Mar-2009	31-May-2009	1.17	\$1	\$25	\$26

Notes for AVOIDED costs: The avoided cost includes the estimated amount necessary (\$25 x 1 samples + \$25 x 1 public notice) to conduct routine coliform sampling and provide public notification of the failure to collect the sample. The date required to collect the distribution sample is the last day of the month the sample is due. The final date is the month the Respondent submitted samples. The date calculated for public notice is the time period that the notice was required to be issued.

Approx. Cost of Compliance \$150

TOTAL \$56

Screening Date 17-Jul-2009		Docket No. 2009-1125-PWS-E		PCW		
Respondent Ha Van Nguyen dba Austin Aqua System				<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 37978				<i>PCW Revision October 30, 2008</i>		
Reg. Ent. Reference No. RN101197986						
Media [Statute] Public Water Supply						
Enf. Coordinator Andrea Linson-Mgbeoduru						
Violation Number	2					
Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(2)(F) and 290.122(c)(2)(A), and Tex. Health & Safety Code § 341.033(d)					
Violation Description	Failed to collect at least five routine distribution coliform samples during the month following a total coliform-positive sample result for the month of May 2008; and failed to provide public notice of the failure to sample for the month of May 2008.					
Base Penalty					\$1,000	
>> Environmental, Property and Human Health Matrix						
OR	Harm					
	Release	Major	Moderate	Minor		
	Actual	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		
	Potential	X	<input type="checkbox"/>	<input type="checkbox"/>	Percent 25%	
>> Programmatic Matrix						
		Falsification	Major	Moderate	Minor	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Percent 0%
Matrix Notes	Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.					
Adjustment					\$750	
					\$250	
Violation Events						
Number of Violation Events		1		Number of violation days 90		
<i>mark only one with an x</i>	daily	<input type="checkbox"/>				
	weekly	<input type="checkbox"/>				
	monthly	X				
	quarterly	<input type="checkbox"/>				
	semiannual	<input type="checkbox"/>				
	annual	<input type="checkbox"/>				
	single event	<input type="checkbox"/>				
Violation Base Penalty					\$250	
One monthly event is recommended, calculated for the month in which the sampling was not done.						
Good Faith Efforts to Comply						
		0.0% Reduction		\$0		
		Before NOV	NOV to EDPRP/Settlement Offer			
Extraordinary	<input type="checkbox"/>					
Ordinary	<input type="checkbox"/>					
N/A	X	(mark with x)				
Notes	The Respondent does not meet the good faith criteria for this violation.					
Violation Subtotal					\$250	
Economic Benefit (EB) for this violation						
Estimated EB Amount			Violation Final Penalty Total			
\$132			\$518			
This violation Final Assessed Penalty (adjusted for limits)					\$518	

Economic Benefit Worksheet

Respondent Ha Van Nguyen dba Austin Aqua System
Case ID No. 37978
Reg. Ent. Reference No. RN101197986
Media Public Water Supply
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$25	1-Jun-2008	31-Aug-2008	1.17	\$1	\$25	\$26
Other (as needed)	\$100	1-May-2008	31-May-2008	1.00	\$5	\$100	\$106

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary (\$25 x 4 samples + \$25 x 1 public notice) to conduct routine coliform sampling and provide public notification of the failure to sample. The time period to collect the distribution sample is the month the samples were due. The date calculated for public notice is the time period that the notice was required to be issued.

Approx. Cost of Compliance

\$125

TOTAL

\$132

Screening Date: 17-Jul-2009		Docket No.: 2009-1125-PWS-E		PCW
Respondent: Ha Van Nguyen dba Austin Aqua System			<i>Policy Revision 2 (September 2002)</i>	
Case ID No.: 37978			<i>PCW Revision October 30, 2008</i>	
Reg. Ent. Reference No.: RN101197986				
Media [Statute]: Public Water Supply				
Enf. Coordinator: Andrea Linson-Mgbeoduru				
Violation Number:		<input type="text" value="3"/>		
Rule Cite(s):		30 Tex. Admin. Code §§ 290.109(f)(3) and 290.122(b)(2)(A) and Tex. Health & Safety Code § 341.031(a)		
Violation Description:		Failed to comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of January, February and April 2008; and failed to provide public notice of the exceedences for the months of February and April 2008.		
Base Penalty:				<input type="text" value="\$1,000"/>
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Release	Major	Moderate	Minor
	Actual	<input type="text"/>	<input checked="" type="checkbox"/>	<input type="text"/>
	Potential	<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				<input type="text" value="25%"/>
>> Programmatic Matrix				
Falsification		Major	Moderate	Minor
<input type="text"/>		<input type="text"/>	<input type="text"/>	<input type="text"/>
Percent				<input type="text" value="0%"/>
Matrix Notes:		The presence of coliform bacteria is an indication that the water supply is contaminated with significant amounts of total coliform that do not exceed levels that are protective of human health.		
Adjustment:				<input type="text" value="\$750"/>
				<input type="text" value="\$250"/>
Violation Events				
Number of Violation Events:		<input type="text" value="3"/>	Number of violation days: <input type="text" value="89"/>	
<i>mark only one with an x</i>	daily	<input type="text"/>		
	weekly	<input type="text"/>		
	monthly	<input checked="" type="checkbox"/>		
	quarterly	<input type="text"/>		
	semiannual	<input type="text"/>		
	annual	<input type="text"/>		
	single event	<input type="text"/>		
Violation Base Penalty:				<input type="text" value="\$750"/>
Three monthly events are recommended, calculated for the months in which the MCL was exceeded.				
Good Faith Efforts to Comply		0.0% Reduction		<input type="text" value="\$0"/>
		Before NOV	NOV to EDPRP/Settlement Offer	
Extraordinary		<input type="text"/>	<input type="text"/>	
Ordinary		<input type="text"/>	<input type="text"/>	
N/A		<input checked="" type="checkbox"/>	<i>(mark with x)</i>	
Notes:		The Respondent does not meet the good faith criteria for this violation.		
Violation Subtotal:				<input type="text" value="\$750"/>
Economic Benefit (EB) for this violation		Statutory Limit Test		
Estimated EB Amount:		<input type="text" value="\$589"/>	Violation Final Penalty Total: <input type="text" value="\$1,553"/>	
This violation Final Assessed Penalty (adjusted for limits):				<input type="text" value="\$1,553"/>

Economic Benefit Worksheet

Respondent: Ha Van Nguyen dba Austin Aqua System
Case ID No.: 37978
Reg. Ent. Reference No.: RN101197988
Media: Public Water Supply
Violation No.: 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$500	15-Jan-2008	23-Apr-2008	1.19	\$35	\$500	\$535
Other (as needed)	\$50	26-Feb-2008	30-Apr-2008	1.09	\$3	\$50	\$53

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary to provide additional oversight to properly treat the water and to flush the distribution lines to prevent the total coliform exceedance; and provide public notification (\$25 x 2 public notice) of the total coliform MCL exceedance. The final date is the final month that a sample tested positive for total coliform. The date calculated for public notice is the time period that the notice was required to be issued.

Approx. Cost of Compliance

\$550

TOTAL

\$589

Screening Date	17-Jul-2009	Docket No.	2009-1125-PWS-E	PCW
Respondent	Ha Van Nguyen dba Austin Aqua System		<small>Policy Revision 2 (September 2002) PCW Revision October 30, 2008</small>	
Case ID No.	37978	Reg. Ent. Reference No.	RN101197986	
Media [Statute]	Public Water Supply			
Enf. Coordinator	Andrea Linson-Mgbeoduru			
Violation Number	4	Rule Cite(s)	30 Tex. Admin. Code §§ 290.109(c)(3)(A)(i) and 290.122(c)(2)(A)	
Violation Description	Failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the months of December 2007 through February 2008 and failed to provide public notice of the failure to collect repeat distribution samples within 24 hours of being notified of a total coliform positive sample for the months of January and February 2008.			
Base Penalty				\$1,000
>> Environmental, Property and Human Health Matrix				
OR	Harm			
	Major	Moderate	Minor	
Release				
Actual				
Potential	X			Percent 25%
>> Programmatic Matrix				
	Major	Moderate	Minor	
Falsification				
Actual				
Potential				Percent 0%
Matrix Notes	Failure to properly sample may expose the public to a significant amount of undetected contaminants that exceed levels protective of human health.			
Adjustment				\$750
				\$250
Violation Events				
Number of Violation Events	3	Number of violation days	121	
<small>mark only one with an x</small>	daily			
	weekly			
	monthly	X		
	quarterly			
	semiannual			
	annual			
	single event			
Three monthly events are recommended, calculated for the months in which the sampling was not done.				Violation Base Penalty \$750
Good Faith Efforts to Comply				
		0.0% Reduction	\$0	
		<small>Before NOV NOV to EDRP/Sallement Offer</small>		
Extraordinary				
Ordinary				
N/A	X	<small>(mark with x)</small>		
Notes	The Respondent does not meet the good faith criteria for this violation.			
Violation Subtotal				\$750
Economic Benefit (EB) for this violation				
Estimated EB Amount		\$371	Statutory Limit Test	
			Violation Final Penalty Total \$1,553	
This violation Final Assessed Penalty (adjusted for limits)				\$1,553

Economic Benefit Worksheet

Respondent: Ha Van Nguyen dba Austin Aqua System
Case ID No.: 37978
Reg. Ent. Reference No.: RN101197986
Media: Public Water Supply
Violation No.: 4

Percent Interest	Years of Depreciation
5.0	15

Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Item Description No commas or \$						

Delayed Costs

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$300	15-Dec-2007	29-Feb-2008	1.13	\$17	\$300	\$317
Other (as needed)	\$50	16-Dec-2007	30-Jun-2008	1.46	\$4	\$50	\$54

Notes for AVOIDED costs

The avoided cost includes the estimated amount necessary (\$25 x 12 samples + \$25 x 2 public notice) to conduct required coliform sampling and provide public notification of the failure to collect samples. The date calculated for public notice is the time period that the notice was required to be issued.

Approx. Cost of Compliance

\$350

TOTAL

\$371

Compliance History Report

Customer/Respondent/Owner-Operator: CN602309908 NGUYEN, HA VAN Classification: Rating:

Regulated Entity: RN101197986 AUSTIN AQUA SYSTEM Classification: Site Rating:

ID Number(s): PUBLIC WATER SYSTEM/SUPPLY REGISTRATION 0270042
 WATER LICENSING LICENSE 0270042
 WATER LICENSING LICENSE 0270090

Location: 105 BURNET HILLS DRIVE, 2.5 MILES SOUTHEAST OF BURNET, BURNET COUNTY, TX

TCEQ Region: REGION 11 - AUSTIN

Date Compliance History Prepared: July 17, 2009

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: July 13, 2004 to July 13, 2009

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Andrea Linson-Mgbeoduru Phone: 512-239-1482

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s) ? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- | | | |
|----|------------|----------|
| 1 | 10/26/2005 | (435252) |
| 2 | 02/15/2007 | (533926) |
| 3 | 02/16/2007 | (537326) |
| 4 | 07/11/2007 | (564050) |
| 5 | 07/17/2007 | (567191) |
| 6 | 05/14/2008 | (638804) |
| 7 | 06/08/2009 | (748448) |
| 8 | 06/08/2009 | (748551) |
| 9 | 06/08/2009 | (748563) |
| 10 | 06/08/2009 | (748573) |
| 11 | 06/08/2009 | (748578) |
| 12 | 06/08/2009 | (748581) |
| 13 | 06/08/2009 | (748584) |
| 14 | 07/07/2009 | (748647) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date:	09/02/2005 (418912)	CN602309908	
Self Report?	NO	Classification:	Minor
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)		
Description:	Failure to maintain equipment.		

Date:	01/29/2007 (533926)	CN602309908	
Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)		

Description:	Failure to provide operational records and reports.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to provide a monitoring plan.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(4)		
Description:	Failure to submit a Quarterly Disinfectant Report.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(i)		
Description:	Failure to provide service agreement.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 288, SubChapter C 288.30(5)(B)		
Description:	Failure to provide a drought contingency plan.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(1)(F)		
Description:	Failure to provide sanitary control easement.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to provide tank inspection records.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to have the storage tank liquid level indicator working.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(3)(K)		
Description:	Failure to provide wellhead and pump seal.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.42(e)(5)		
Description:	Failure to have chlorination room secure.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to have a plant operation manual.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.45(b)(1)(B)(iv)		
Description:	Failure to meet pressure tank capacity.		

Date: 02/16/2007 (537326)

CN602309908

Self Report?	NO	Classification:	Moderate
Citation:	30 TAC Chapter 290, SubChapter D 290.46(f)		
Description:	Failure to provide operational records and reports.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter F 290.121(a)		
Description:	Failure to provide a monitoring plan.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(1)		
Description:	Failure to provide tank inspection records.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(i)		
Description:	Failure to provide service agreement.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter F 290.110(e)(4)		
Description:	Failure to submit a Quarterly Disinfectant Report.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 288, SubChapter C 288.30(5)(B)		
Description:	Failure to provide a drought contingency plan.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.41(e)(1)(F)		
Description:	Failure to provide sanitary control easement.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.43(c)(4)		
Description:	Failure to have the storage tank liquid level indicator working.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.42(l)		
Description:	Failure to have a plant operation manual.	Classification:	Minor
Self Report?	NO		
Citation:	30 TAC Chapter 290, SubChapter D 290.46(m)(4)		
Description:	Failure to maintained check valve in a watertight condition.		

Date: 01/17/2008 (748551) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 01/2008 - System exceeded a Maximum Contaminant Level Violation.

Date: 02/21/2008 (748448) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 12/2007 - Failure to collect any repeats following a coliform found result.

Date: 02/25/2008 (748563) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 02/2008 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
Description: TCR PN MCL Violation 02/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Date: 03/11/2008 (748551) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 01/2008 - Failure to collect all repeats following a coliform found result.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Repeat Monitoring Violation 01/2008 - Failure to post public notice for not collecting all repeats following a coliform found result.

Date: 04/16/2008 (748563) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(3)(A)(ii)
Description: TCR Repeat Monitoring Violation 02/2008 - Failure to collect any repeats following a coliform found result.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Repeat Monitoring Violation 02/2008 - Failure to post public notice for not collecting any repeats following a coliform found result.

Date: 04/25/2008 (748578) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(f)(3)
Description: TCR MCL Violation 04/2008 - System exceeded a Maximum Contaminant Level Violation.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(b)(2)(A)
Description: TCR PN MCL Violation 04/2008 - Failure to post a public notice for exceeding a Maximum Contaminant Level Violation.

Date: 06/27/2008 (748581) **CN602309908**
Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(F)
Description: TCR Increase Monitoring Violation 05/2008 - Failure to collect all 5 distribution samples following a coliform found month.

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
Description: TCR PN Increase Monitoring Violation 05/2008 - Failure to post public notice for not collecting all 5 distribution samples following a coliform found month.

Date: 08/26/2008 (700010) **CN602309908**
Self Report? NO **Classification:** Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: The water system failed to maintain a pressure maintenance facility in a watertight condition. Specifically, the investigator observed on the day of the investigation that the 525-gallon pressure tank had a pin-hole leak near the base of the tank.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: The water system failed to ensure that a roof hatch on one of the 31,000-gallon, interconnected ground storage tanks remained locked.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.110(b)(2)
 Description: The water system failed to maintain a minimum residual disinfectant concentration of 0.2 mg/l in the distribution system. On the first day of the investigation the chlorine residual levels were below the minimum required concentration of 0.2 mg/l at two locations. At 3535 East Hwy. 29 the residual was 0.14 mg/l and at 110 Clyde Lane there was no detectable disinfectant in the water.

Date: 05/06/2009 (748584) CN602309908
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.109(c)(2)(A)(ii)
 Description: TCR Routine Monitoring Violation 02/2009 - Failure to collect any routine monitoring sample(s).
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter F 290.122(c)(2)(A)
 Description: TCR PN Routine Monitoring Violation 02/2009 - Failure to post public notice for not collecting any routine monitoring sample(s).

Date: 06/17/2009 (748422) CN602309908
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(3)(J)
 30 TAC Chapter 290, SubChapter D 290.46(m)
 Description: Failure to properly maintain the concrete sealing block to minimize the possibility of contamination.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(v)
 Description: Failure to securely install electrical wiring in compliance with the local or national electrical code.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.42(j)
 Description: Failure to use a disinfectant which conforms to the ANSI/NSF Standard 60 for directive additives.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(2)
 Description: Failure to lock the roof hatch on the ground storage tank at Plant No. 1.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain the ground storage tanks at Plant No. 2 in a watertight condition.
 Self Report? NO Classification: Minor
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(m)(4)
 Description: Failure to maintain the pressure tank in a watertight condition.
 Self Report? NO Classification: Moderate
 Citation: 30 TAC Chapter 290, SubChapter D 290.46(e)
 Description: Failure to operate the system at all times under the direct supervision of a water works operator who holds an applicable, valid license issued by the TCEQ.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN	§	BEFORE THE
ENFORCEMENT ACTION	§	
CONCERNING	§	TEXAS COMMISSION ON
HA VAN NGUYEN DBA AUSTIN AQUA	§	
SYSTEM	§	ENVIRONMENTAL QUALITY
RN101197986	§	

AGREED ORDER DOCKET NO. 2009-1125-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Ha Van Nguyen dba Austin Aqua System ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that he has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply at 105 Burnet Hills Drive, two and one half miles southeast of Burnet, Burnet County, Texas (the "Facility") that has approximately 57 service connections and serves at least 25 people per day for at least 60 days per year.

2. During a record review conducted on June 1, 2009, TCEQ staff documented that the Respondent did not collect routine distribution water samples for coliform analysis for the month of February 2009 and did not provide public notification of the failure to sample for February 2009.
3. During a record review conducted on June 1, 2009, TCEQ staff documented that the Respondent did not collect at least five routine distribution coliform samples during the months following a total coliform-positive sample result for the month of May 2008 and did not provide public notice of the failure to sample for the month of May 2008.
4. During a record review conducted on June 1, 2009, TCEQ staff documented that the Respondent did not comply with the Maximum Contaminant Level ("MCL") for total coliform for the months of January, February and April 2008 and did not provide public notice of the exceedences for the months of February and April 2008.
5. During a record review conducted on June 1, 2009, TCEQ staff documented that the Respondent did not collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine distribution coliform sample collected during the months of December 2007 through February 2008; and did not provide public notice of the failure to collect repeat distribution samples within 24 hours of being notified of a total coliform positive sample for the months of January and February 2008.
6. The Respondent received notice of the violations on July 12, 2009.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to collect routine distribution water samples for coliform analysis and failed to provide public notification of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(A)(ii) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).
3. As evidenced by Findings of Fact No. 3, the Respondent failed to collect at least five routine distribution coliform samples during the months following a total coliform-positive sample result and failed to provide public notice of the failure to sample, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(2)(F) and 290.122(c)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.033(d).
4. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with the MCL for total coliform and failed to provide public notice of the exceedences, in violation of 30 TEX. ADMIN. CODE §§ 290.109(f)(3) and 290.122(b)(2)(A), and TEX. HEALTH & SAFETY CODE § 341.031(a).
5. As evidenced by Findings of Fact No. 5, the Respondent failed to collect a set of repeat distribution coliform samples within 24 hours of being notified of a total coliform-positive result for a routine coliform sample and failed to provide public notice of the failure to collect repeat

distribution samples within 24 hours of being notified of a total coliform positive sample result, in violation of 30 TEX. ADMIN. CODE §§ 290.109(c)(3)(A)(ii), and 290.122(c)(2)(A).

6. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
7. An administrative penalty in the amount of Four Thousand One Hundred Forty-Two Dollars (\$4,142) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid One Hundred Seventeen Dollars (\$117) of the administrative penalty. The remaining amount of Four Thousand Twenty-Five Dollars (\$4,025) of the administrative penalty shall be payable in 35 monthly payments of One Hundred Fifteen Dollars (\$115) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Four Thousand One Hundred Forty-Two Dollars (\$4,142) as set forth in Section II, Paragraph 7 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Ha Van Nguyen dba Austin Aqua System, Docket No. 2009-1125-PWS-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:

- a. Within 10 days after the effective date of this Agreed Order:
 - i. Implement procedures to ensure all necessary public notifications are provided in a timely manner to the customers of the Facility, in accordance with 30 TEX. ADMIN. CODE § 290.122; and
 - ii. Begin complying with applicable coliform monitoring requirements by collecting routine coliform distribution samples and providing water that meets the provisions regarding microbial contaminants, in accordance with 30 TEX. ADMIN. CODE § 290.109. This provision will be satisfied upon six months of compliance monitoring and reporting.
- b. Within 195 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

“I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.”

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Public Drinking Water Section
Water Supply Division
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreed Order may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes under this Agreed Order.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

Date 12/11/2009

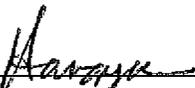
I, the undersigned, have read and understand the attached Agreed Order in the matter of Ha Van Nguyen dba Austin Aqua System. I am authorized to agree to the attached Agreed Order on behalf of Ha Van Nguyen dba Austin Aqua System, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Ha Van Nguyen dba Austin Aqua System waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

Date 10/19/09

HA NGUYEN

Name (Printed or typed)
Authorized Representative of
Ha Van Nguyen dba Austin Aqua System

Title owner

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.